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TRAINOR FAIRBROOK  
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A. MOORE, as Successor Trustee of the WALTER  
C. ELLIOTT and GEORGANA ELLIOTT  
REVOCABLE TRUST

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

IN RE:

MANUEL ALLEN SABIN and ALISA MARIE SABIN,

### Debtors.

Case No. 2010-52789

## Chapter 11

DCN: UST-1

**CREDITORS' RESPONSE TO U.S.  
TRUSTEE'S MOTION FOR  
CONVERSION OR DISMISSAL OF  
CHAPTER 11 CASE**

Hearing Date: September 19, 2011  
Time: 10:00 a.m.  
Courtroom: 28  
Judge: Michael S. McManus

Creditors KARSAN T. ELLIOTT, individually, and JAMES A. MOORE, as Successor Trustee of the WALTER C. ELLIOTT and GEORGANA ELLIOTT REVOCABLE TRUST ("Creditor") provide this response to the United States Trustee's Motion for Conversion or Dismissal of the Debtors' Chapter 11 case.

1. Debtors filed their chapter 11 petition on December 15, 2010.

2. The U.S. Trustee has filed a Motion for Conversion or Dismissal of Debtors' Chapter 11 case citing "cause" based upon Debtors' failure to file or timely file their monthly operating report.

3. Bankruptcy Code § 1112(b)(1) provides that the bankruptcy court shall dismiss or convert a Chapter 11 case if the movant establishes cause, unless the court specifically finds and identifies unusual circumstances establishing that such relief is not in the best interest of creditors and the estate.

4. This Creditor does not object to the U.S. Trustee's motion but favors dismissal rather than conversion as dismissal is in the best interests of creditors. Both Debtors are doctors and have substantial on-going income and earning potential in which to repay creditors. Creditors should be able to use state law to pursue repayment in these circumstances.

5. Moreover, it is expected that Debtors are not eligible for a Chapter 7 case due to their substantial income and earning capacity. A Chapter 7 means test analysis will likely demonstrate a presumption of abuse.

## CONCLUSION

This responding Creditor does not object to the U.S. Trustee's Motion but requests that the Court dismiss the Chapter 11 case as a dismissal is in the best interests of creditors given Debtors substantial income and earning capacity.

Dated: August 30, 2011

# TRAINOR FAIRBROOK

By: /s/ Jennifer L. Pruski  
JENNIFER L. PRUSKI

**PROOF OF SERVICE**

1 I, Sandra J. Morris, declare:

2 I am a resident of the State of California and over the age of eighteen years, and not a  
 3 party to the within action; my business address is 980 Fulton Avenue, Sacramento, California  
 4 95825-4558. On August 30, 2011, I served the within documents:

**CREDITORS' RESPONSE TO U.S. TRUSTEE'S MOTION FOR CONVERSION OR  
DISMISSAL OF CHAPTER 11 CASE**

- 7  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
forth below on this date before 5:00 p.m.
- 8  by placing the document(s) listed above in a sealed envelope with postage thereon  
fully prepaid, in the United States mail at Sacramento, California addressed as set  
forth below.
- 10  by causing personal delivery by \_\_\_\_\_ of the document(s) listed  
11 above to the person(s) at the address(es) set forth below.
- 12  by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope  
13 and affixing a pre-paid air bill, and causing the envelope to be delivered to a  
\_\_\_\_\_ agent for delivery.
- 14  by personally delivering the document(s) listed above to the person(s) at the  
15 address(es) set forth below.

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17 Finance Co.  
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19 Omaha, Nebraska 68127-1210

20 BAC Home Loans  
21 450 American Street SV416  
22 Simi Valley, California 93065-6285

23 Bank of America  
24 Post Office Box 17054  
25 Wilmington, Delaware 19850-7054

26 Robert J. Binns  
27 3620 American River Drive #175  
Sacramento, California 95864-5923

28 W. Austin Cooper  
2525 Natomas Park Drive, #320  
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2		
3		
4	Employment Development Department Bankruptcy Group, MIC 92E Post Office Box 826880 Sacramento, California 94280-0001	Franchise Tax Board Post Office Box 2952 Sacramento, California 95812-2952
5		
6		
7	GE Money Bank c/o Recovery Management Systems Corp. Attn: Ramesh Singh 25 SE 2nd Avenue #1120 Miami, Florida 33131-1605	GMAC Mortgage, LLC c/o Stefanie A. Schiff 4375 Jutland Drive #200 Post Office Box 17933 San Diego, California 92177-7921
8		
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11	Glenda Goodwin c/o Jennifer E. Duggan 350 University Avenue #200 Sacramento, California 95825-6581	IRS 4330 Watt Avenue Sacramento, California 95821
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13	Internal Revenue Service Post Office Box 21126 Philadelphia, Pennsylvania 19114	Vikas Kumar 501 I Street #7-500 Sacramento, California 95814-7304
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15	Michael S. McManus Sacramento Division U.S. Bankruptcy Court 501 I Street, Suite 3-200 Sacramento, California 95814-7303	NELNET Loans Post Office Box 1649 Denver, Colorado 80201-1649
16		
17		
18	Nelnet 3015 S Parker Road #400 Aurora, Colorado 80014-1904	Office of the U.S. Trustee Robert T. Matsui United States Courthouse 501 I Street, Room 7-500 Sacramento, California 95814-7304
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 30, 2011, at Sacramento, California.

Sandra Morris  
Sandra L. Morris